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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of the Suspension)
or Revocation of the License of)

SEYMOUR KOSLOWSKY, D.D.S.)

To Practice Dentistry in the)
State of New Jersey)

Administrative Action

FINAL DECISION

AND
ORDER

This matter was brought before the New Jersey State Board of Dentistry ("Board") on the complaint of Robert J. Del Tufo, Attorney General of New Jersey, by Anne Marie Kelly, Deputy Attorney General, which was filed with the Board on October 1, 1991. The complaint alleged in the first count that the respondent prescribed for patient B.D. 344 Percocet tablets between the dates January 14, 1987 and October 15, 1989 without sufficient dental justification. The complaint further alleged in a second count that 19 prescriptions written by the respondent for patient B.D. failed to be recorded in the patient's treatment records. The respondent filed an answer to the complaint on November 14, 1991. The matter was set down for a hearing before the Board on May 20, 1992.

Prior to the hearing, the parties settled the matter by letter agreement. In accordance with the terms of the agreement, the Board held a hearing on May 20, 1992 solely for the purpose of taking testimony in mitigation of sanctions.

By the terms of the settlement agreement the respondent admits and acknowledges that he undertook to provide dental care to the patient B.D. between January 14, 1987 and October 15, 1989, on or about 21 occasions as noted in the patient record. Between these dates respondent prescribed for B.D. 344 Percocet tablets, a Schedule II Controlled Dangerous Substance. The respondent further admitted that the prescribing of 344 Percocet tablets as set forth in the complaint was done without sufficient dental justification and that such conduct constituted repeated acts of negligence in violation of N.J.S.A. 45:1-21(d).

The respondent also admits and acknowledges that the dates for 19 prescriptions for controlled dangerous substances are not shown on B.D.'s treatment records as dates on which treatment was rendered. The respondent has requested, however, that the Board recognize that visit notes were included in the respondent's appointment book which did not appear in the patient's individual treatment record. The respondent admits the allegations of the complaint that such failure to record the issuance of all of the alleged prescriptions constitutes a failure to maintain an adequate patient record in violation of N.J.A.C. 13:30-8.8 and thus N.J.S.A. 45:1-21(h) and that such conduct also constitutes gross malpractice in violation of N.J.S.A. 45:1-21(c), repeated acts of negligence in violation of N.J.S.A. 45:1-21(d), and professional misconduct in violation of N.J.S.A. 45:1-21(e).

On May 20, 1992, Pamela Mandel, Esq., appeared on behalf of the respondent, and Anne Marie Kelly, Deputy Attorney General,

appeared on behalf of the Attorney General. The respondent also appeared personally before the Board and testified on his own behalf. Ms. Mandel provided the Board with the respondent's appointment books, pharmacy profiles for the patient B.D., newspaper photographs reflecting on the respondent's character in the community, and a certification of Kyle Banker, the respondent's office manager. D.A.G. Kelly provided the Board with the Investigative Report prepared by the Enforcement Bureau.

After due consideration of the terms of the settlement agreement, the record before the Board, the role played by other health care professionals in connection with the treatment of the patient, B.D., and the mitigating circumstances for a determination of sanctions, the Board finds that there is convincing and persuasive evidence warranting a reduction in the sanctions which were previously agreed to by the parties. Although the Board finds that the settlement terms in regard to penalty, including the assessment of a civil fine in the amount of \$3,500 and attendance at both the didactic and clinical portions of a mini-residency concerning the proper prescribing of controlled dangerous substances are just and consistent with the allegations of the complaint, it appears to the Board that the conduct of the respondent in regard to this patient represents an isolated incident. Further, although the respondent exercised poor judgment in continuing to prescribe controlled dangerous substances for this patient over a long period of time, it is likely that he would have realized the nature of her drug

addiction sooner if he had been made aware by other health care professionals, including pharmacists, of similar prescriptions written by others.

Although the Board finds mitigating circumstances with respect to the prescription writing, the Board finds serious lapses in the records kept of such prescriptions for this patient. The Board specifically does not find the fact that the respondent made note of some of the patient's visits and prescriptions in his appointment book but not in the patient's permanent treatment chart to be a mitigating circumstance.

WHEREFORE, IT IS ON THIS 2nd DAY OF June, 1992,

HEREBY ORDERED THAT:

1. Respondent shall be assessed a civil penalty in the amount of \$1,000. Said penalty shall be made payable to the State of New Jersey and submitted to Agnes Clarke, Executive Director of the Board of Dentistry, 124 Halsey Street, Newark, New Jersey 07102, no later than the first day of the month following the entry date of this Order.

2. The respondent shall successfully complete the didactic portion of the mini-residency entitled "The Proper Prescribing of Controlled Dangerous Substances" offered at the University of Medicine and Dentistry of New Jersey at the Robert Wood Johnson Medical School in Camden, New Jersey. The respondent shall be required to complete the didactic portion of this course during the fall offering unless he is specifically denied admittance.

Upon completion of the course, the respondent shall present to the Board, in writing, a certificate of successful completion of the course signed by the course instructor or his designee. In addition, the respondent shall write a summary of the course which shall consist of a minimum of a five pages typed, double spaced, analysis of the course. The written report shall be submitted to the Board no later than two weeks after completion of the course.

William R. Cinotti D.D.S.

WILLIAM R. CINOTTI, D.D.S.
PRESIDENT
BOARD OF DENTISTRY